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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,679	07/11/2001	Eric Aubay	022701-939	8975

7590

07/21/2003

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EXAMINER

MRUK, BRIAN P

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/901,679

Applicant(s)

AUBAY ET AL.

Examiner

Brian P Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 and 33-40 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: Cover Sheet & PTO-1449 from Paper No. 8.

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed May 8, 2003. Applicant has amended claims 1-32. New claims 33-40 have been added. Currently, claims 1-40 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office action, Paper No. 8.
3. Per the request by applicant, the examiner has attached a copy of the cover sheet of the Office Action and a copy of the PTO-1449 form from the Office Action mailed on January 10, 2003 (Paper No. 8) with the current Office Action.
4. The examiner agrees with applicant's remarks regarding the Title of the Invention in the Declaration, and asserts that the record is clear that the Title of the instant invention is "COMPOSITIONS BASED ON NANOPARTICLES OR A NANOLATEX OF POLYMERS FOR FABRIC CARE".
5. The objection of the abstract for containing more than one paragraph is withdrawn in view of applicant's newly amended abstract.

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6. The objection of the specification for containing non-capitalized trademarks is withdrawn in view of applicant's amendments and remarks. Specifically, applicant has amended the instant specification to capitalize all of the recited trademarks.
7. The objection of claims 5-29 for being improper multiple dependent claims is withdrawn in view of applicant's amendments and remarks. Specifically, applicant has amended instant claims 5-29 to depend from a single claim.
8. The objection of claim 32 for being an improper multiple dependent claim is maintained for the reasons of record.
9. The rejection of claims 2-3 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's amendments and remarks. Specifically, applicant has amended instant claims 2-3 to remove the narrow ranges/limitations that fall within the broad range/limitation recited in claims 2-3.
10. The rejection of claim 4 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's amendments and remarks. Specifically, applicant has amended instant claim 4 to change the term "particles" to "nanoparticles" to provide proper antecedent basis for this limitation in the claim.

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11. The rejection of claim 30 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's amendments and remarks. Specifically, applicant has amended instant claim 30 to set forth a positive step involved in the recited process.

12. The first rejection of claim 31 under 35 U.S.C. 112, second paragraph, for containing the limitation "characterized in that the said nanoparticles or the said nanolatex protect fabrics against physical **or** chemical degradation **and/or** provide softening **and/or** crease-resistance properties," is maintained for the reasons of record.

13. The second rejection of claim 31 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's amendments and remarks. Specifically, applicant has amended instant claim 31 to set forth a positive step involved in the recited process.

14. The rejection of claims 1-4 and 30-31 under 35 U.S.C. 102(b) as being anticipated by Sharma et al, WO 98/00449, is maintained for the reasons of record.

15. The rejection of claims 1, 2, 4 and 30-31 under 35 U.S.C. 102(b) as being anticipated by Matsuda et al, U.S. Patent No. 4,746,455, is maintained for the reasons of record.

NEW GROUNDS OF REJECTION

Claim Objections

16. Claim 6 is objected to because of the following informalities: In the last line of instant claim 6, the term "nano latex" should be amended to recite "nanolatex" for consistency purposes. Appropriate correction is required.

Claim Rejections - 35 USC § 112

17. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

18. Claim 6 recites the limitation "said particles" in lines 2-3, lines 5-6, lines 8-9, line 13, and line 15. There is insufficient antecedent basis for this limitation in the claim. Specifically, the examiner notes that the phrase "said particles" should be amended to recite "said nanoparticles" to provide proper antecedent basis. Appropriate correction and/or clarification is required.

Claim Rejections - 35 USC § 102

19. Claims 5-29 and 33-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Sharma et al, WO 98/00449, for the reasons of record found in the last Office Action, Paper No. 8, Paragraph No. 16.

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20. Claims 5-29 and 33-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuda et al, U.S. Patent No. 4,746,455, for the reasons of record found in the last Office Action, Paper No. 8, Paragraph No. 17.

Response to Arguments

21. Applicant's arguments filed May 8, 2003 have been fully considered but they are not persuasive.

Applicant argues that the amendment to instant claim 32 obviates the objection of claim 32 for being an improper multiple dependent claim. However, the examiner asserts that newly amended claim 32 is still an improper multiple dependent claim, since a single claim cannot make reference to two sets of claims to different features. **See MPEP 608.01(n).** Therefore Claim 32 has not been further treated on the merits.

Applicant argues that the amendment to instant claim 31 obviates the objection raised in paragraph (13). However, the examiner asserts that the amendment to claim 31 has not addressed the issue raised by the examiner in paragraph (13), namely that claim 31 is rejected under 35 U.S.C. 112, second paragraph, for containing the limitation "characterized in that the said nanoparticles or the said nanolatex protect fabrics against physical **or** chemical degradation **and/or** provide softening **and/or** crease-resistance properties." Furthermore, since applicant has not provided any remarks/arguments regarding this rejection, the examiner maintains the rejection of claim 31 under 35 U.S.C. 112, second paragraph, for the reasons of record found in the last Office Action, Paper No. 8, Paragraph No. 13.

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Applicant argues that Sharma et al, WO 98/00449, does not teach or suggest in general a composition that imparts crease-resistance, softening, or pre-spotting properties to a fabric. However, the examiner asserts that the recitation of "A crease-resistant, softening, pre-spotting fabric treating composition" in newly amended claim 1 occurs in the preamble, which is not accorded any patentable weight, since the preamble of instant claim 1 does not breath life and meaning into the claim. "A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone." **See MPEP 2111.02.** Therefore, the examiner asserts that the broadest reasonable interpretation of instant claim 1 is as a "fabric treatment composition", and since Sharma et al is directed toward a composition for treating fibrous articles, the examiner maintains the rejection of instant claims 1-4, 30 and 31 under 35 U.S.C. 102(b) as being anticipated by Sharma et al, WO 98/00449.

Applicant argues that Matsuda et al, U.S. Patent No. 4,746,455, does not teach or suggest in general a composition that imparts crease-resistance, softening, or pre-spotting properties to a fabric. However, the examiner asserts that the recitation of "A crease-resistant, softening, pre-spotting fabric treating composition" in newly amended claim 1 occurs in the preamble, which is not accorded any patentable weight, since the preamble of instant claim 1 does not breath life and meaning into the claim. "A preamble is generally not accorded any patentable weight where it merely recites the

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purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone." **See MPEP 2111.02.** Therefore, the examiner asserts that the broadest reasonable interpretation of instant claim 1 is as a "fabric treatment composition", and since Matsuda et al is directed toward a composition for treating clothing articles, the examiner maintains the rejection of instant claims 1, 2, 4 and 30-31 under 35 U.S.C. 102(b) as being anticipated by Matsuda et al, U.S. Patent No. 4,746,455.

Conclusion

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Bm

Brian Mruk
July 15, 2003

Brian P. Mruk
Brian P. Mruk
Patent Examiner
Tech Center 1700